

cliff\files\hernandez-lamboy\pleadings\Hernandez First Amended Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALICIA HERNANDEZ
2046 N. Howard Street
Philadelphia, PA 19133

Plaintiff

vs.

LAMBOY FURNITURE, INC.
2846 N. 5th Street
Philadelphia, PA 19133
And

LAMBOY HOUSING DEVELOPMENT CO.
2846 N. 5th Street
Philadelphia, PA 19133
And

NATIONAL TENANT NETWORK
188 Freis Mill Road
Blackwood, NJ 08012
And

CANDELARIO LAMBOY
c/o Lamboy Furniture, Inc.
2846 N. 5th Street
Philadelphia, PA 19133

Defendants

NO.

07. cv. 240

FIRST AMENDED COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, et seq. Defendants accessed plaintiff's confidential consumer credit report in order to facilitate an invasion of privacy and identity theft.

2. The FCRA only permits access to consumer reports for specific purposes

enumerated under the FCRA. 15 U.S.C. §1681b. Defendants did not have any permissible purpose to access plaintiff's consumer credit report.

3. Any person or entity who willfully and/or negligently violates the FCRA is subject to liability. 15 U.S.C. §1681n and §1681o.

II. JURISDICTION

4. Jurisdiction arises under the FCRA, 15 U.S.C. §1681p, and 28 U.S.C. §1337.

III. PARTIES

5. Plaintiff is Alicia Hernandez who resides in Philadelphia, Pennsylvania at the address captioned.

6. Defendant Lamboy Furniture, Inc. is a Pennsylvania corporation with a business address as captioned.

7. Defendant Lamboy Housing Development Co. is a Pennsylvania corporation with a business address as captioned.

8. Defendant Candelario Lamboy is the owner of Lamboy Furniture, Inc. and of Lamboy Housing Development Co. with an address as captioned. Lamboy Furniture, Inc., Lamboy Housing Development Co, and Candelario Lamboy are collectively referred to as "Lamboy".

9. Defendant National Tenant Network ("NTN") is a New Jersey corporation which regularly does business in Pennsylvania and has a business address as captioned.

10. NTN regularly engages in the business of assembling, evaluating, and disbursing information concerning consumers for the purpose of furnishing consumer reports, as defined in 15 U.S.C. §1681a(d), to third parties, for monetary compensation.

11. NTN is a "consumer reporting agency" as defined in 15 U.S.C. §1681a(f).

IV. STATEMENT OF CLAIM

12. In 2005, plaintiff leased residential property to an individual named Jose Diaz ("Diaz"), who occupied the same as a tenant. The property was located at 4740 N. Mascher Street, Philadelphia, PA (the "Property").

13. Diaz was subsequently evicted from the Property on or about August 24, 2006.

14. Plaintiff, while cleaning and readying the Property to be relet, found in the debris Diaz left at plaintiff's property, one or more consumer credit reports that had been run on Hernandez. These credit reports had been obtained and produced by NTN at Lamboy's request.

15. The consumer reports provided by NTN to Lamboy then to Diaz consist of a tenant performance profile of plaintiff Hernandez and includes sensitive personal and private information, such as her social security number, a credit history profile, employer information, pay histories, credit lines, home address information and the like.

16. Plaintiff never sought to lease any property from Lamboy.

17. Plaintiff never gave Lamboy permission or consent to obtain a consumer report, nor did Lamboy have any permissible purpose to secure plaintiff's credit report.

18. Plaintiff never gave NTN permission or consent to provide Lamboy or others a consumer report about her.

19. Plaintiff never gave Diaz or any defendant permission or consent to obtain a consumer report.

20. Diaz, upset about being evicted, has sought retribution against plaintiff Hernandez. Diaz has stalked Hernandez and threatened her.

21. Lamboy and NTN intentionally or negligently aided Diaz in securing Hernandez's credit report and in his activities against plaintiff.

22. Lamboy provided only a blanket certification to NTN which stated a phony reason to obtain plaintiff's credit report. The report was sought and obtained for impermissible and unlawful purposes.

23. Lamboy and NTN provided Diaz with a consumer report on plaintiff so that Diaz could stalk, harass and harm her.

24. None of the defendants had a permissible purpose or reason to obtain or use a consumer report about plaintiff.

25. Pursuant to 15 U.S.C. §1681b, a consumer report may only be furnished for the specific purposes stated thereunder, including for use in connection with a credit transaction or for employment purposes.

26. None of the defendants had a permissible purpose under 15 U.S.C. §1681b to request or supply a consumer report relating to plaintiff.

27. As a result of each defendant's willful, wanton, reckless, and/or negligent action, plaintiff has been damaged.

28. Plaintiff's privacy has been invaded as a result of the willful, wanton, reckless and/or negligent conduct of defendants.

29. Plaintiff has suffered mental and emotional distress, worry, humiliation, and embarrassment as a result of defendants' actions.

30. Plaintiff's credit profile and history has been adversely affected as a result of defendants' actions.

COUNT I - FAIR CREDIT REPORTING ACT
(V. LAMBOY FURNITURE, INC. AND LAMBOY DEVELOPMENT CO)

31. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

32. Lamboy Furniture, Inc. and Lamboy Development Co. have jointly and/or severally violated the Fair Credit Reporting Act by willfully and/or negligently failing to comply with the requirements imposed under 15 U.S.C. §1681b, for obtaining or providing a consumer report, including obtaining a consumer report under false pretenses.

33. Lamboy Furniture, Inc. and Lamboy Development Co. have jointly and/or severally violated the Fair Credit Reporting Act by willfully and/or negligently reporting or obtaining credit information about plaintiff. 15 U.S.C. §1681n and §1681o.

WHEREFORE, Plaintiff, Alicia Hernandez demands judgment against Lamboy Furniture, Inc. and Lamboy Development Co, jointly and/or severally, for:

- (a) Actual and compensatory damages;
- (b) Punitive damages;
- (c) Attorney's fees and costs; and
- (d) Such other and further relief as the Court shall deem just and proper.

COUNT II - FAIR CREDIT REPORTING ACT
(V. CANDELARIO LAMBOY)

34. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

35. Candelario Lamboy has willfully and/or negligently failed to comply with the requirements imposed under 15 U.S.C. §1681b, for obtaining or providing a consumer report, including obtaining a report under false pretenses.

36. Candelario Lamboy has violated the Fair Credit Reporting Act by willfully and/or negligently reporting or obtaining credit information about plaintiff. 15 U.S.C. §1681n and §1681o.

WHEREFORE, Plaintiff, Alicia Hernandez demands judgment against Candelario Lamboy for:

- (a) Actual and compensatory damages;
- (b) Punitive damages;
- (c) Attorney's fees and costs; and
- (d) Such other and further relief as the Court shall deem just and proper.

COUNT III - FAIR CREDIT REPORTING ACT
(V. NATIONAL TENANT NETWORK)

37. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

38. NTN has violated the Fair Credit Reporting Act by willfully and/or negligently failing to comply with the requirements imposed under 15 U.S.C. §1681b, for obtaining or providing a consumer report.

39. NTN has violated the Fair Credit Reporting Act by willfully and/or negligently failing to comply with the requirements imposed under 15 U.S.C. §1681e(a) for verifying the identity and/or permissible purposes of credit users.

40. NTN has violated the Fair Credit Reporting Act by willfully and/or negligently reporting or obtaining credit information about plaintiff. 15 U.S.C. §1681n and §1681o.

WHEREFORE, Plaintiff, Alicia Hernandez demands judgment against defendant National Tenant Network for:

- (a) Actual and compensatory damages;
- (b) Punitive damages;

(c) Attorney's fees and costs; and

(d) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 11/06/07

/s/ Cary L. Flitter (CLF5997)
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LAMBOY HOUSING DEVELOPMENT
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NATIONAL TENANT NETWORK

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CANDELARIO LAMBOY

Defendants

CIVIL ACTION

NO. 07-CV-0240(JD)

CERTIFICATE OF SERVICE

I, FRANK SCHWARTZ, do hereby certify that a copy of Plaintiff's Motion for
Leave to File First Amended Complaint has been electronically filed with the Clerk of
Court using the CM/ECF system which sent notification of such filing to:

Richard Perr, Esquire
Fineman, Krekstein & Harris
United Plaza, Suite 1800
30 South 17th Street
Philadelphia, PA 19103

Said document is available for viewing and downloading from the ECF system.

DATE: November 6, 2007

/s/ Frank Schwartz

CARY L. FLITTER
FRANK SCHWARTZ

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(610) 668-0019